

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on February 17, 1999 at 8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Barry "Spook" Stang (D)

Members Excused: Sen. Bill Glaser (R)

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: None
Executive Action: SB 310; SB 311

EXECUTIVE ACTION ON SB 310

CHAIRMAN DEVLIN told the committee that he had received revised, unapproved Fiscal Notes for **SB 310** and **SB 311** to reflect the amendments suggested by the committee.

Motion: **SEN. DEPRATU** moved **SB 310 DO PASS AS AMENDED.**

Discussion:

SEN. STANG said that it appears to him that there are still \$2 million worth of reasons to make someone unhappy. He said he was going to vote no because he is sure someone in his district isn't going to like it. **CHAIRMAN DEVLIN** said he had asked at the hearing whether all the contractors in the state had agreed to this when the Contractors Association made the decision to go forward with this bill, and he had been assured that most of them had.

SEN. ELLIS said that there are definitely going to be some who will not be happy with this legislation, but it seemed to him that for the state of Montana it is good policy, and for most of the contractors it is good policy.

SEN. DEPRATU said that at this point the 87-13 match says that we need to go ahead, but he also expressed some concerns for people in his district that may not feel this is a good deal. He said he felt, though, that with the federal match on the dollars, it needed to be done.

Vote: Motion carried 7-2 with Devlin and Stang voting no.

EXECUTIVE ACTION ON SB 311

Motion/Vote: **SEN. DEPRATU** moved SB 311 DO PASS AS AMENDED.

Motion carried 7-2 with Devlin and Stang voting no.

EXECUTIVE ACTION ON SB 212

CHAIRMAN DEVLIN said he would like to put some amendments on this bill so that the committee could get a new fiscal note. He said that there are other rental vehicles besides cars, including trucks, truck tractors and trailers, and he felt that if Montana is going to start down the path of this kind of taxation, these other vehicles should also be included.

Motion: **SEN. DEPRATU** moved SB021204.ALH, **EXHIBIT**(tas39a01).

Discussion:

SEN. STANG asked if these vehicles would get the credit, just as the cars do, and **CHAIRMAN DEVLIN** said they would. **SEN. DEPRATU** asked if the tax would apply also, as long as they were rented for 30 days or less, and **CHAIRMAN DEVLIN** said that was also correct.

SEN. ECK said that one of the big arguments for doing this was that vehicle rental companies are really competing with other states, and she asked if there was any indication that all of these other kinds of vehicles are presently licensed in other states in order to avoid the tax, and **CHAIRMAN DEVLIN** said that was correct. **SEN. DEPRATU** said that his company rents pickup trucks to out-of-state hunters and such, and that the Budget Rent-a-Car franchise in his area has the van trucks available to rent, and most of those are licensed out of state.

SEN. ECK pointed out that this does not include motorhomes, which are also rented, and **CHAIRMAN DEVLIN** said he would have no objection to adding them to this bill.

Vote: Motion carried 9-0.

Motion: **SEN. ECK** moved that motorhomes be added to this list.

Discussion:

SEN. EKEGREN clarified that when referring to motorhomes, that is recreational vehicles, and **SEN. ECK** said that was correct. **Mr. Heiman** agreed that recreational vehicles would be the correct term.

Vote: Motion carried 9-0.

Motion: **SEN. DEPRATU** moved SB021203.ALH, **EXHIBIT**(tas39a02).

Discussion:

CHAIRMAN DEVLIN said this amendment has to do with the percentages that are circulated. He said that since the reimbursement equaled 50% of the motor vehicle taxes, if the vehicle tax bill goes through, that reduces this by about one-third. This amendment cuts the 50% by one-third, which comes to 33% in the formula will go back to the vehicle rental people. The amendment then cuts the amount going to heritage preservation to 40%, the local share is increased to 17%, and on the bottom of page 5, the total amount would be \$100,000 rather than \$200,000.

SEN. ELLIS asked if the Department of Revenue had any idea of the fiscal impact brought about by these amendments, and **CHAIRMAN DEVLIN** said the purpose of making these amendments was to get a revised Fiscal Note.

SEN. STANG asked if there was a coordination clause with **SB 260** in case it does not pass. He said it appears that this is coordinated in the percentages with **SB 260**, and wondered if **SB 260** changes, should this also be changed. **CHAIRMAN DEVLIN** said that could be a good point, and that **SB 260** had not been referred to in these amendments, but that could be done at another time. He said he would like to see the impact from these amendments, but agreed that there should be a coordinating amendment to that.

Vote: Motion carried 9-0.

NOTE: An information sheet from Jerry Woodahl regarding **SB 212** which was provided after the committee hearing was marked **EXHIBIT (tas39a03)**, and "A Report on How Governments Spend Travel Tax Revenue," put out by the Travel Industry Association of America, also received after the hearing, was marked **EXHIBIT (tas39a04)**.

EXECUTIVE ACTION ON SB 375

SEN. BOHLINGER asked if the committee could consider some amendments to **SB 375**, which is the \$500 tax credit for college expenses.

Motion: **SEN. BOHLINGER** moved SB037501.ALH, **EXHIBIT (tas39a05)**.

Discussion:

CHAIRMAN DEVLIN asked what the impact would be, and **SEN. BOHLINGER** said that the Fiscal Note would be reduced significantly. **CHAIRMAN DEVLIN** asked if he intended to get a new Fiscal Note, and **SEN. BOHLINGER** said that was correct. He asked if **Mr. Heiman** could explain the amendments.

Mr. Heiman said that the amendment provides that a person cannot get a double deduction by using the Family Savings Plan, and it limits it to a taxpayer or a parent of the student. It limits the number of people who can get it, and it limits using the Education Savings Plan.

CHAIRMAN DEVLIN said he had a note about some technical notes, and wondered if **Mr. Heiman** knew anything about those. **Mr. Heiman** said that these are the necessary changes to accommodate those technical notes.

SEN. ECK said she remembered discussion about whether both the student and the parent could take this credit, and wondered

whether that was clarified, and **Mr. Heiman** said that has been taken care of.

SEN. ELLINGSON said he understood the intent of the amendment to be that a taxpayer who is contributing \$3,000 and is getting a deduction for that, and at the same time that taxpayer has a dependent student for whom the taxpayer is paying at least \$500 in terms of the credit, he understood the intention to be not to allow both of those exemptions to be made, but the bill simply says that if a taxpayer takes \$500 out of the account and uses it for those expenses, then that taxpayer is not allowed to claim the \$500 credit; however, the taxpayer can make the \$3,000 payment into the educational account, and if the taxpayer does not take the \$500 out of the education account, the taxpayer is still allowed to have the \$500 deduction. He wondered if that was correct. **Mr. Heiman** said that the second example would be permitted because it is not the same \$500 dollars, but it limits taking the same dollar and getting the deduction twice.

SEN. EKEGREN asked in regard to the \$3,000 account for education, whether taxes have to be paid on that when it is withdrawn for education, and **SEN. BOHLINGER** said the recipient of the funds would have to pay the tax on the gain that has been achieved through investment.

SEN. ECK asked whether when a grandparent makes the investment and gets the deduction, the student who benefits from that will not be able to deduct the \$500, and **Mr. Heiman** said he believed that the beneficiary is the grandchild at the time the money is taken out, so if the grandchild takes the money out of the educational savings account, they cannot use that same money to get a double deduction, either.

SEN. DEPRATU asked, when using the grandparents' fund of \$3,000, and the college expenses were \$8,000 and were supplied by the parents, whether the parents could claim the \$500 deduction and the grandparents' fund could also be claimed, and **Mr. Heiman** said that was correct.

SEN. EKEGREN asked who pays the gain on the savings account, the grandparent who put it in, or the child who takes it out, and **Mr. Heiman** said the child would pay the gain. **SEN. EKEGREN** commented that more than likely the child has no income, so he will not pay any taxes anyway.

SEN. STANG asked if a parent pays \$500 and the student pays \$500, whether they both get the deduction, and **SEN. ELLINGSON** commented that that only works if the child is a dependent. Some

discussion followed as to what determines a dependent, and it was decided that that definition is in the federal code.

SEN. ELLINGSON asked the Department of Revenue whether there was any limitation on what the dependent can earn, even though they may still be going to school, and **SEN. STANG** said they can be claimed as a dependent, but if they are, then the child cannot take the full deduction on their taxes. If a child is claimed on his parents' return, the difference is prorated back to their return.

SEN. BOHLINGER said that as a side note, with this amendment the bill will benefit the parent who sends their children to private schools. People who send their children to public schools can take advantage of the \$3,000 deduction under the savings plan, but this will apply to private schools.

CHAIRMAN DEVLIN asked if the double-dipping issue had been considered when the first Fiscal Note was created, and **Mr. Smith, Department of Revenue**, said he did not believe the Fiscal Note considered that.

SEN. ECK asked how this would work with divorced parents, with each contributing \$500, who claims the deduction, and **SEN. ELLINGSON** said only one parent could claim the student as a dependent, and only that parent could claim the deduction. **SEN. ECK** said that the bill reads "taxpayer or dependent," and **Mr. Heiman** said that the student could be the taxpayer, but then he is not a dependent of someone else. **SEN. DEPRATU** said that only one person can claim that deduction, but there are a variety of ways that it can be claimed. **SEN. ECK** wondered how that would be decided, and **Mr. Smith** said that in order to claim this deduction, that student would have to be your dependent. **SEN. ECK** asked whether the language in the bill really says that, and **Mr. Smith** said he felt the language was very clear. He said the attorney who wrote this bill is very familiar with federal tax codes, as well as state, and it was discussed on how not to allow two people to claim this deduction. A dependent is someone who is claimed on a tax return. **SEN. ECK** then asked if a student who is no one's dependent and pays his own tuition can get the \$500 deduction, and **Mr. Smith** said he could.

Vote: Motion carried 9-0.

CHAIRMAN DEVLIN asked **SEN. BOHLINGER** to check the bill closely to make sure it says what the committee expects it to say, and it can be discussed further when the committee takes executive action.

ADJOURNMENT

Adjournment: 8:45 A.M.

SEN. GERRY DEVLIN, Chairman

SANDY BARNES, Secretary

GD/SB

EXHIBIT (tas39aad)